



**STATE OF NEW JERSEY**

In the Matter of Eric Groething,  
Sheriff's Officer (S9999U), Hudson  
County Sheriff's Office

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2018-3090

List Removal Appeal

**ISSUED: FEBRUARY 27, 2020 (SLK)**

Eric Groething appeals the decision to remove his name from the Sheriff's Officer (S9999U), Hudson County Sheriff's Office, eligible list on the basis of falsification of his application.

The appellant took the open competitive examination for Sheriff's Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. In disposing of the certification, the Division of Agency Services (Agency Services) recorded the removal of the appellant's name from the eligible list on the basis of falsification of his application. The list expires on March 30, 2020.

The appointing authority's background report indicates that on the appellant's application, he did not list his sister, A.B., did not provide a detailed explanation for a disciplinary action in high school, indicated that he was initially suspended for 16 hours by his employer, the Plainfield Police Department, due to a Simple Assault charge which was returned to him upon acquittal, failed to list that he was placed on modified duty from August 29, 2014 to July 14, 2016, took New York City public safety examinations, but did not provide a New York City address which would have disqualified him from the subject examination, failed to notify the appointing authority that he was rejected by the Jersey City Police Department for employment as instructed, did not provide a full explanation regarding his modified duty and failed to state that the modified duty was for one year and 11 months, failed to list the length of time that he was relieved of his weapon for the August 2014 Simple Assault charge, failed to list that he was a member of a Scandinavian

Cultural Club, failed to list police contact (Simple Assault 03/09/2011 Off Duty, Deprivation of Civil Rights, Simple Assault and Harassment 11/14/2011 On Duty, Harassment 01/30/2012 On Duty, Harassment 08/21/2014 Off Duty, Simple Assault 08/21/2014 Off Duty), failed to list three court appearances, failed to list matters in litigation, failed to list three motor vehicle accidents, failed to list motor vehicle accidents while on duty which he listed in his Jersey City Police Department application, failed to list a motor vehicle violations while operating a vehicle owned by law enforcement (Obstructing Passage of Other Vehicle 10/14/2004), did not explain the details of the civil litigation that involved him, did not list his expenses for basic necessities such as groceries and clothes, failed to supply a letter of reference, and did not follow the instructions when completing certain parts of the application.

Additionally, the report indicated that a Municipal Court Judge found that the appellant was guilty of Simple Assault as the Judge found him to be the aggressor, but the appellant was acquitted of that charge on a technicality. Further, he was taken to court for excessive force and violations of civil liberties and these complaints took place after he became a Police Officer.

On appeal, the appellant explains that he did not list A.B. as his sister as she is not actually his sister, but was the daughter of his father's girlfriend who used to live with him at his father's house. Concerning school discipline, his only discipline was a two-day suspension in high school for breaking a window on a bus and he did list this incident on his application. He explains that he did list that he was suspended for 16 hours for a Simple Assault charge and the time was returned to him when he was acquitted. The appellant also listed that he received modified duty concerning this charge where specifically asked about modified duty on his application. He states that he did list all civil service examinations that he took and the status of those applications on his application. The appellant states that contrary to the appointing authority's statement, his name was restored to the list regarding a 2015 Jersey City Fire Department examination and as far as he knows, his name is still on the active list for the 2017 Jersey City Police Department examination. He explains that he could take the New York City civil service examinations while not a resident of New York and would only have to move there if he moved forward with the process. With respect to a Simple Assault charge, he states that he was forced to defend himself after being attacked as a Police Officer and the counter charges against him were dismissed. He does not believe these charges should be used against him. The appellant explains that he did clearly explain that he was suspended, received modified duty and lost his weapon regarding the Simple Assault charge and the question did not require him to state the amount of time. He presents that he did list that he was a member of a Scandinavian Cultural Club.

In reference to his arrest, summons and conviction record, the appellant explains that the March 9, 2011 incident occurred while off duty when he was forced to defend himself against an individual who attacked him. He filed charges and the other individual filed counter charges. All charges were dismissed through mediation. Thereafter, on November 14, 2011, while on duty, there was a motor vehicle crash that involved a father and son. The father was found to be at fault, the appellant made a disorderly persons arrest and the father and son counter filed charges against him. He states that all the charges against him were dismissed and the two individuals pleaded guilty. The appellant presents that on August 21, 2014, while off duty, he was forced to defend himself after being physically attacked, despite identifying himself as a Police Officer. The individual filed counter charges against him. He states that both parties were convicted in municipal court of a petty disorderly persons offense for mutual fighting. Thereafter, the Appellate Division dismissed the charges against him. The appellant explains he has never been arrested nor detained by law enforcement. Instead, all charges were counter charges, which is why he did not list these charges when asked about police contact. However, he states that he did list these charges when asked about incidents that involved the court systems and other questions that were directly related to these charges.

Concerning his motor vehicle accidents, the appellant acknowledges that he has been a part of many duty-related accidents in his career. To the best of his knowledge, he states that he provided the paperwork for all accidents. With respect to motor vehicle summonses, he states that he did list that he received a 2006 speeding ticket. The appellant indicates that he does not remember the specifics of the 2004 Obstructing Passage of Other Vehicle violation and that it may be in connection with the October 14, 2004 accident. He states that he did list litigation on his application. Regarding his expenses, the question that the appointing authority references was not included in the materials they submitted. Further, he states that he listed all the expenses that he knows, but does not keep track of food and clothing expenses. The appellant indicates that his reference advised him that he sent the appointing authority his letter of reference. He states that he answered the questions and followed the instructions as he understood them. He reiterates that he has never been informed that he was rejected by the Jersey City Police or Fire Departments and, as far as he knows, he is active on both lists.

In response, the appointing authority relies on its background report.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Civil Service Commission (Commission) to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons

includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

*N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

*N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

The primary inquiry regarding the removal of a candidate's name based on the falsification of his or her employment application is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. *See In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003).

In this matter, the appointing authority had valid reasons for removing the appellant's name from the list. The appellant's background report indicates that in October 2004, he was involved in a motor vehicle accident, which led to an Obstructing Passage of Other Vehicle violation. Thereafter, in January 2006, he received an Unsafe Operation of Vehicle violation. On March 3, 2011, while off-duty as a Police Officer, the appellant was involved in an incident where he was accused of punching the victim in the face repeatedly while the victim was on the floor, pulling a gun out and holding it to the side of the victim causing the victim to fear for his life. The victim had injuries to his eyes and the bridge of his nose. The matter was dismissed. On June 22, 2011, the appellant was involved in an on-duty motor vehicle accident. On November 14, 2011, while on-duty, the appellant was charged with Deprivation of Civil Rights, Simple Assault and Harassment. Subsequently, on January 30, 2012, while on duty, the appellant was charged with harassing the father involved in the November 14, 2011 incident. The charges for the November 2011 and January 2012 charges were dismissed. On November 17, 2013, while on duty, the appellant was accused of discrimination. Specifically, he was accused of reaching into the alleged victim's vehicle, physically grabbing him and forcefully removing him. The civil litigation in this matter was pending at the time of the background report. On August 21, 2014, the appellant was involved in an off-duty incident where it was alleged that he made inappropriate statements and beat the victim about the head and face until he lost consciousness causing his nose to be fractured and stitches to his left eye. The Municipal Court Judge found the appellant guilty of the petty disorderly persons offense of simple assault by engaging "in a fight or scuffle entered into by mutual consent." The Law Division

found no basis for the appellant's argument of self-defense and found him guilty of Simple Assault. However, the Appellate Division reversed the Simple Assault charge on the basis of double jeopardy as the Municipal Court Judge had dismissed the Simple Assault charge. This matter was in civil litigation at the time of the background report. Additionally, the appellant was involved in an on-duty motor vehicle accident on December 26, 2015. In other words, a review of the background report indicates that the appellant has continuous negative interactions from October 2004 through December 26, 2015, which is less than a year prior to the August 31, 2016 closing date, both on and off-duty as a Police Officer, which includes motor vehicle violations, accidents and physical and verbal altercations, which led to criminal charges and pending law suits. In this regard, it is recognized that a Sheriff's Officer is a law enforcement employee who must enforce and promote adherence within to the law. Sheriff's Officers hold highly visible and sensitive positions within the community and that the standard for an applicant includes good character and an image of the utmost confidence and trust. It must be recognized that a Sheriff's Officer is a special kind of employee. His primary duty is to enforce and uphold the law. He carries a service revolver on his person and is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. He represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public. *See Moorestown v. Armstrong*, 89 N.J. Super. 560, 566 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990).

Further, the Commission finds that the appellant falsified his application as he did not provide a full picture of his background to the appointing authority. For example, the appellant indicates that the charges for the August 21, 2014 incident were dismissed. In actuality, a Municipal Court Judge found the appellant to have committed a petty disorderly persons offense of simple assault by engaging "in a fight or scuffle entered into by mutual consent." Further, the appellant did not fully describe that allegations on his application as outlined in the police report. Additionally, the Law Division found that the appellant was the aggressor in the fight and upgraded the appellant's conviction to Simple Assault conviction, which the Appellate Division reversed on the ground that the upgraded charge was improper due to double jeopardy. However, nowhere on the appellant's application did he describe the complete history of this incident. Therefore, even if there was no intent to deceive, in light of the extent of the appellant's continuous negative interactions and the seriousness of some of the accusations, his failure to disclose the complete picture of his background was material. At minimum, the appointing authority needed this information to have a complete understanding of his background in order to properly evaluate his candidacy.

Some other issues need to be addressed. In *In the Matter of Eric Groething* (CSC, decided November 15, 2017), the Commission restored the appellant's name

to a Fire Fighter eligible list where he had been removed for an unsatisfactory background. The Commission did find that his background was sufficient to warrant that his name be recorded as bypassed on the certification. However, in that matter, the appointing authority never provided its background report or any other response to the appeal. Accordingly, the appellant's complete background as described above was never evaluated by the Commission as the decision only indicates his background containing one minor discipline as a Police Officer and one discrimination complaint that had not yet been adjudicated, which were insufficient to determine that he had an unsatisfactory background. However, in this matter, the Commission had the opportunity to review the appellant's complete background as described above, and the appellant had the opportunity to respond to the background report. This complete view indicates that the appellant's background is unsatisfactory. It also noted that the appellant had not been removed for cause on any other certification and, therefore, this is the first opportunity that the Commission had to review his complete background.

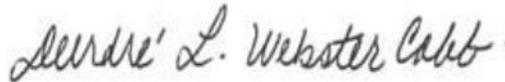
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Sheriff's Officer (S9999U), Hudson County Sheriff's Office eligible list.

### ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 26<sup>th</sup> DAY OF FEBRUARY, 2020



Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries

and  
Correspondence

Christopher S. Myers  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Eric Groething  
Frank X. Schillari, Sheriff  
Kelly Glenn  
Records Center